

[23rd April 1948]

(3) AMENDMENT TO SCHEDULES IV, V AND VI TO THE MADRAS CITY MUNICIPAL ACT, 1919 (MADRAS ACT IV OF 1919).

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I beg to move—

‘ that the draft amendments ^a to the Madras City Municipal Act, 1919 (Madras Act IV of 1919) which it is proposed to make in exercise of the powers conferred by section 347 (5) of the Madras City Municipal Act, 1919 (Madras Act IV of 1919) be approved.’ ”

The motion was put and carried.

III.—GOVERNMENT BILLS—*cont.*

(4) THE POLICE (MADRAS AMENDMENT) BILL, 1947
(L.A. BILL NO 38 OF 1947)

MR. PRESIDENT :—“ The Hon. the Finance Minister.”

* THE HON. SRI K. MADHAVA MENON :—“ I am moving it on behalf of the Hon. the Finance Minister. I am in charge of it.”

MR. PRESIDENT :—“ He is here. I suppose there will be no point of order about the Bill being moved by another Minister while the Minister in whose name it stands is here.”

* THE HON. SRI K. MADHAVA MENON :—“ If there is any such thing, the Hon. Minister may leave the Chamber, Sir.

“ Sir, I beg to move—

‘ that the Police (Madras Amendment) Bill, 1947 ^b (L.A. Bill No. 38 of 1947), as passed by the Legislative Assembly be taken into consideration at once.’

“ This Bill is intended to amend section 15-A of the Police Act, 1861. Section 15 of the Act says that it shall be lawful for the Provincial Government under certain circumstances to notify any particular area as a disturbed area. Section 15-A says :

‘ If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated.’

“ Sir, compensation can be claimed only if the area is notified beforehand as a disturbed area. Suppose, Sir, unfortunately something happens in Madras to-day. It has not been declared a disturbed area, so nobody can claim any compensation. What is proposed to do is to omit the words ‘ in regard to which any proclamation notified under the last preceding section is in force ’ so that anybody who suffers loss on account of rioting, unlawful assembly and so on may claim compensation. It need not necessarily be in a notified area. A man may reside in Madras and something may happen to his property in Vaniyambadi. Now the owner will not be able to claim compensation because he is not an inhabitant of the particular area. It is proposed to remove the

^a Printed as Appendix V on pages 297-305 *infra*.

^b Printed as Appendix VI on page 305 *infra*.

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words 'being an inhabitant of such area,' so that a person who suffers a loss, wherever he may be, may be entitled to claim compensation. The object of the amendment to enable the Government to collect the necessary amounts from the aggressors or persons responsible for the aggression and persons who have been behind the aggressors and grant compensation to the unfortunate person who may be living in any locality."

SRI B. NARAYANASWAMI NAYUDU :—“ Mr. President, 12-15
p.m.
Sir, I rise to make a strong protest against the Bill. I have heard of Bills and I ask the members sitting opposite, what is the real purpose and scope of this Bill. We have had the Public Safety Act passed in the teeth of opposition. We have got a little Charles I in this Bill. What does it say? Any place where there is murder or a grievous hurt or a plunder or it may even be the burning of a hut, will be notified as a disturbed area. Supposing a riot occurs in an ordinary town and there is clash of arms between persons and in another place some property is looted, what is the ordinary law to be followed and what is the law that you now propose? I ask the Hon. Mr. Madhava Menon, though the Bill is put down in the name of Mr. Gopala Reddi, what is the difference between the two and why do you want power while the ordinary law is there. Section 15-A of the Police Act says, 'If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued' . . . The whole object of the Police Act is to declare an area as a disturbed area. Therefore, to take away the operation of the ordinary law in that area and substitute it by what may be called collective responsibility, not with reference to certain individuals, what is the idea behind it? Under the provision, if a certain riot takes place or a person dies, it is for the Magistrate of the district to notify that particular place as a disturbed area. Again in clause 2 (2) of the Bill, you want to renumber clauses (a), (b) and (c) as clauses (b), (c) and (d), respectively, of section 15-A of the Police Act and to add a new clause (a) and according to that clause, the Magistrate shall proceed to say that such and such inhabitants of a particular area are the persons who are responsible for this and compensation shall be leviable from them. Therefore, you don't fix the locality, you don't fix the number of offences and you don't say how the Magistrate shall act. You simply say that when a murder occurs, the Magistrate is the person to say that point A to B in a certain area is a disturbed area and the inhabitants thereof are liable and then the Magistrate proceeds to assess the damage and give it to the persons concerned for compensation. What is the scope of the Police Act of 1861? It has only to deal with what may be called disturbed areas, where the condition is such that it is not in a peaceful state and the ordinary law cannot be administered. Why do you take away the *sine qua non*, namely, the condition of the place there is such that you cannot apply the ordinary law. If a man is murdered, what is the ordinary law to give damages to him and against whom you should proceed? If property is plundered, there is the civil court to proceed against the person who has caused the damage to property.

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but what is this law? This law is not an ordinary law. It gives power to the District Magistrate to say that the inhabitants of a certain area shall be liable to pay for the damage caused and for the murder, arson or loot in that place. He can declare point A to point B in Fort St. George to be a disturbed area and that all persons in that area should contribute to the levy. Is it the way you administer the law? Should there not be foundation for an emergency law like that? At least, should not there be a limitation of what may be called universal law or anything of the stamp in regard to a place which really can be said to be in a disturbed condition. On the other hand, it simply says 'if in any area death or grievous hurt, loss or damage to property is caused' what is the loss of property? After all it may cost Rs. 10. It may be a case of plunder and the loss may amount to lakhs of rupees; or it may be a grievous hurt and a man might have broken one's tooth. What the Police are doing now and what the Government do is, when there is a grievous hurt, the Magistrate notifies the place, settles the case and makes the person responsible to pay the amount. What I beg to submit is, why are you arming the Magistrate with such powers? We have had the Public Safety Act arming the Government with regard to liberty of the individual and now we have got an Act arming the District Magistrate with certain powers. Even if there is to be a small riot in a particular place, he can say at once, I declare that to be a disturbed area and I declare such and such person as the person liable to pay compensation, say, Rs. 200, Rs. 500 or Rs. 1,000. Now the power is illimitable and the power is given to the Magistrate to declare a person as the one who has caused an injury, fix the amount of compensation to be paid by the inhabitants of a particular area to be declared and so on. Therefore, in all seriousness, I ask the hon. Members sitting opposite, why, when there is the ordinary law, you are willing to arm the District Magistrate with such powers? What will happen is, you will get the workers in a place going to the District Magistrate complaining that a certain man has been murdered and ask him to declare that area to be a disturbed area and to pay them compensation for the loss. Is it what you want? Is it what you are legislating for? Is the ordinary law not sufficient for you? If, for instance, there is murder, or pillage in a particular place and you cannot control it by the application of the ordinary law, you have to proclaim that area to be a disturbed area at once. Supposing, I get away from that place rather than face the trouble of paying compensation, I am no longer a resident of that area. According to this provision, even though I may be somewhere in the world and if some riot occurs, my hon. Friend, Mr. Madhava Menon, may declare that area to be a disturbed one. Of course, I am above board . . . (The Hon. Sri K. Madhava Menon: 'I will instruct the Magistrate.') That is exactly the reason why you should not arm the District Magistrate. Of course, you can break the tooth of my hon. Friend, Mr. Farookhi, and make me a pauper. Is that the power which you want?"

MR. PRESIDENT:—"I think the hon. Mr. Farookhi will do well to clear away from this place."

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SRI B. NARAYANASWAMI NAYUDU :—“ Then, your followers will come and worry you if you declare that area as disturbed area and ask for the levy of compensation. If you are going to give such powers to the Magistrate it will lead to the execution of the person sponsoring the law, and the abuse of them. What are the historical facts which you have got? From the year 1867, when the foreign Government was there, it was able to manage only with those powers. You who claim to be representatives of Government, the popular party, safeguarding individual liberty, you cannot carry on unless you arm the District Magistrate with powers and also give him powers to assess the amount of compensation to be paid and for declaring the area to be a disturbed area. You have got the power, and as has been said, it may be wise to have it but it should not be used in a tyrannical manner. I am not for giving such a power to the District Magistrate to declare that such and such an area is a disturbed area. There ought to be a limit to which you can go.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Mr. President, Sir, I am also one with Mr. Narayanaswami Nayudu, to record my emphatic protest against Acts of this nature being placed on the Statute Book. Sir, I have always felt ever since I came to this House—particularly after the declaration of independence, I have expressed my views—though they have fallen on the deaf ears of this Government yet I am sure they would certainly be useful to the public to take stock of what is going on and how they are to act in the future before the next election comes that this Government has become panicky. (Sri B. Narayanaswami Nayudu : ‘ Not panicky, but despotic ’.) I quite agree with my hon. Friend, Mr. Narayanaswami Nayudu that this Government has become despotic; it has become Fascist. But this Fascism and despotism are naturally the result of panic. I feel there is no necessity for such extraordinary powers. There is no necessity for this Government to invest the District Magistrate with such extraordinary powers. My hon. Friend, Mr. Narayanaswami Nayudu was right in saying that this Police Act has been in force for a long number of years and that it has been used by a foreign Government quite successfully. Now, what is the extraordinary situation that has arisen, one cannot understand, to warrant such an enactment. (Sri B. Narayanaswami Nayudu : ‘ They won’t tell it now ’.) Sir, I agree with some of these gentlemen who feel that situations may arise when Government have to be armed with extraordinary powers. Sir, at least in our Province, by God’s grace, such a situation has not arisen and why should we give room to people to become panicky and why should people really understand that such a situation is going to arise in the future and therefore, Government is arming itself with such extraordinary powers. I think, Sir, that this will create a very bad impression upon the public. In fact the Police Act has been continuing for a long time and it has not been in any way inadequate to maintain the peace of the land. Such being the case I do not feel any necessity for amending the Act at the present moment.

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" Now, Sir, any area could have been declared a disturbed area. The Government had that power. Even for any small excuse, an officer who is vested with the power can declare an area as a disturbed area on account of a small incident. No doubt, there are very good officials in the Government and there are also people to whom such powers should not be entrusted and it is dangerous also to entrust such powers to people who, though they occupy big positions, may misuse such powers. Unless the Government feel that an extraordinary situation has arisen and that an area has to be declared a disturbed area, one cannot understand why the Government want to take such extraordinary powers. I, for my part, will say that any law-abiding citizen will certainly support the Government that in an extraordinary situation the Government should be given extraordinary powers to maintain peace and law. Now, all of a sudden, the Government comes forward with a Bill, whether any such situation has arisen or not, to arm the District Magistrate with powers to declare any area as a disturbed area. If there is a small incident, and as my hon. Friend has suggested, a hut might have been burnt or a small injury might have been caused or my friend may break my tooth or I may break somebody's tooth, of course there is some consolation and you are right in saying, we may leave the place and go away. Perhaps after going away I may find that a great damage has been caused. Therefore, Government are not right in putting such powers in the hands of District Magistrates. There is another difficulty which I feel should be avoided in such cases. Is it a case of a single individual that has to pay compensation or is the Government going to entrap a whole body of people? I feel that the Government, though they have not expressed in so many words, are perhaps thinking of a particular class of people whose political ideas may not be very palatable to them. Most probably, it is possible that their political opponents may have to come under this category. (Sri B. Narayanaswami Nayudu: Why 'may have'?) Because I want to be cautious in using my expression. My friend is perhaps positive that it is going to come. It is because I want to be cautious I used the expression 'may have to come'. The political party which is opposed to the ideals of the present Government or the party in power, such a political party may have to come under the powers that are sought to be granted to the District Magistrate and such a political party have to pay the penalty for the whims and fancies of a Government which wants to retain power. Therefore, I feel it is very dangerous. But in the interests of democracy, it is necessary that the number of laws should be as limited as possible. When a Government which was not a democratic Government, a Government which was carried on by people who were not of our way of thinking and who were not mindful of our interests, I mean, the British Government, and has carried on the administration and kept up peace and order for a long time with the laws that were prevailing in those days. I ask, is it not feasible, is it not desirable, for a democratic Government like ours to carry on the Government with those laws, even to limit the number of such laws and see that greater liberty is

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given to the people. The object in getting independence is to make the people happy, make them feel that they are the owners of the land, that they are the people on whom the administration of the law rests and that they would not be entrapped or put in prison without lawful reason. Sir, now this Government has been going on in a wreckless manner and in a manner which is beyond the comprehension of the people who were holding out very great hopes of independence. People have been put in prison. Your political opponents have been put in prison, people who have said that they have no connection with the movement which was in the opinion of the Government dangerous, have been put in prison, while there is no need to do so. Nobody knows when they are going to be released or set at liberty, and nobody knows what were the reasons that actuated the Government to put them in prison. All these things are going on not before the 15th August 1947 but after that red letter day in the history of our great land. Now, Sir, we have made ourselves the laughing stock of the people outside. What will happen if this state of affairs is brought to their notice? No doubt I am aware that there will be great press censorship and our Government will not allow all the troubles committed on the people of the land to be broadcast to outside countries. Sir, I am certain that in France, England and other places where democratic Governments are carried on, people will say, "what are these fellows in India that even after having achieved Independence, they have not been able to administer their own country properly and so do not deserve independence." That will be the feeling outside the country due to the manner in which this Government is carried on. As a matter of fact, the large number of enactments that have been passed after 15th August 1947 only go to show that this Government has no confidence in the public. Perhaps they cannot control the public. Probably this Government feels they may not continue longer and that is the reason why they have become panicky and that therefore, they are passing law after law and placing all sorts of laws on the Statute Book which are detrimental to the liberty of the people and which go against the ordinary elementary principles of democracy. Therefore, I think it is necessary that they should not only not pass such Acts but repeal all those Acts that have been passed after August 1947 and also repeal all those Acts passed by the Advisory Regime. Instead of repealing and bidding good-bye to all those Acts and making our people breathe free air the Government says 'no', we are going to harness you and put round your neck more and more burden and harness you with a greater number of laws, so that you cannot raise your heads. That is the impression which any common man in the country will have. Therefore, I would appeal to the Government to reconsider the position. I only make this as an appeal because I know, though optimistic you are, you have always felt, that discussions of this nature can go a great way to help rather than to do any harm and no doubt there is very great force in that argument. Sir, but for your very humorous and genial temperament this House should have been a very dull House (Dr. V. K. John : 'Hear, hear'). The Leader of the Opposition says, 'Hear,

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hear' that is quite right and every member of the House feels very thankful to you for putting that spirit in them. Sometimes we feel that there is no spirit in us. Now, Sir, what I say is this. Though much purpose will not be served by discussions of this sort, this is going to serve a very great purpose, thought not to-day. My hon. Friend opposite seem to think, why should we care for the discussion, what are these fellows going to say and even if they say anything we are not going to hear but brush aside all the criticisms that are levelled against us. They may be feeling what will be the repercussions and its after effect. Now, we are watching only the aftereffects and I say it is going to be very adverse to the party in power. In spite of my difference with them, I feel, that of all the parties, this is the best party in the land, at least for the present. I say, do not lose the good name. There are other people who are going to occupy your place. My hon. Friend says, that for the future also this party is going to be a good party. I say it is very good for the future also. So, do not allow other people to snatch away that fair name from you and there are people who want to do it. You know, Sir, and the Members of this House know, that there are people who are coming here and addressing public meetings criticizing the Congress Party that is in power and lakhs and lakhs of people are going there and listen to all these. What will be the effect of all these on the minds of the people who hear such speeches? In fact, most of the remarks that fall from the lips of these people are correct, because you are exposing yourself to such a charge and the ordinary man thinks that this party in power which has gained power some time back has been so intoxicated with power that they are not going to listen to anybody except what they are going to do and they are not amenable to reason. I appeal to the Government to yield to reason and see that justice is done to other people and not brush aside with contempt the remarks that fall from the lips of the Opposition. Such being the case, I say that extraordinary powers should not be taken by the Government and such powers should not be vested in the hands of people who may perhaps misuse those powers. Then, Sir, I also appeal to the Government to see that when powers are entrusted to District Magistrates they do not use those powers against people who are opposed to the party in power in order to please the party in power. Let not the District Magistrates become victims of prejudice; let them not use those powers in order that the opponents of the present party in power may be oppressed. Therefore, with all the vehemence at my command I feel that I should record my very strong protest against this Bill and I feel that the opposition is quite justified in opposing measures of this kind."

* SRI C. N. MUTHURANGA MUDALIYAR :—" Mr. President, Sir, I have been hearing the speeches of Mr. Narayanaswami Navudu and Mr. Farookhi Sahib. No doubt, as Mr. Narayanaswami Navudu would say, I am going to support this Bill whatever speeches they make, but I do not want to give a silent vote in supporting this Bill. On the achievement of Independence, from the 15th August 1947, I very much wished there need be no

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Government, there should be no law and that there should be no police or courts. I mean, for such a contingency to arise, the people must also be good. They must all be law-abiding citizens. (Interruption.) I do not want to be interrupted. I will come to you later. People must also be honest and sincere. They must also feel that the Government is theirs and that the country is theirs; they must be non-violent and truthful and so long as there is non-violence in the land there is no need for any law or for any police or courts.

“ Sir, when there is violence about us, there must need be a Government, a good Government as it now exists in our midst and they must also have laws. Laws were enacted by the foreign Government—the Advisers’ Government. Many a Member in this House had been Members of that Legislature in those days also but they were implicitly supporting every measure that the foreign Government were enacting. Such an opposition voice was not raised at any time before. It was only the Congress that had acted as an Opposition and even before that, without any party name, Congressmen, as the main opposition, had raised their voice against the undesirable legislation enacted by the foreign Government. 12-45 p.m.

“ But, to-day the same Congress Ministers have to enact this legislation, not because they take pleasure in doing it, not because they are despotic ministers, not because they want to develop Fascism in them but because they want to see their country governed properly, to see their country peaceful and that every citizen gets his due. Sir, we had ourselves encouraged the N.G.Os. to become unruly and strike work against the Government Servants Conduct Rules; we have been instrumental in encouraging the workers to become unruly; we had encouraged the scavengers to throw stones in the very Secretariat and we had encouraged the docile teachers to strike work and go in procession in the streets of Madras. Buses were burnt; windows were broken. All these things had happened in this very city of Madras. Now, the N.G.Os. at Calcutta have struck work and are adopting *Satyagraha* against the Government of India. I am told that our friends in the Communist Party have encouraged them to do so in order to destroy the existing Government and take power in their own hands. That may or may not be their ambition. But so long as the Government is there and so long as the present situation prevails in the land, the Government must rule with the necessary legislation. Many a reference was made to District Magistrates. The District Magistrates were there during the days of the foreign Government. Then, District Magistrates were thinking that they were the servants of the foreign Government and the foreign Government was paying them. Now, District Magistrates are people’s servants and they are all free men and they are free citizens of this land. Now, a new situation has arisen. The District Magistrate or any Government servant is a free citizen of the land. He has as much right to do as we, in this House, have got. Under these circumstances, there is no use complaining about District Magistrates. They are merely carrying out the orders of the

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Government in order to see that peace prevails in the land. That is the position. Mr. Farookhi Sahib referred to the Government as despotic and fascist. I would request him to tour for a week in the Western Pakistan and find out whether Fascism is existing in the Western Pakistan or in Madras. That will convince him where Fascism exists. That is all I wanted to say. That is my opinion. As I begin I end it. I do want to see that there is no Police Raj, that there is no Military Raj and that citizens must be peaceful and non-violent. They should not try to cut at each other's throat as they have been trying to do in Mannargudi. I am sorry, I have to say this."

DR. V. K. JOHN :—" Mr. President, Sir, before I criticise this Bill, I must refer to a suggestion which amounted to a ruling given by you, Sir, on a former occasion that when the Government want to introduce a Bill to amend an Act, they must print side by side the section which is being sought to be amended. On this side of the House, protests were made from time to time that when Bills were introduced to amend existing Acts we should be supplied with copies of existing Acts or at least particular sections concerned. When we took up this point, you found that it was a point well worth your consideration and after consideration, you made a suggestion which normally, Sir, coming from you, is a direction. I call it direction, because it was accepted by the Government and carried out by the Government in a number of Bills which they introduced.

" Now, Sir, they want to amend section 15-A of the Police Act, 1861. Now, they have not given side by side section 15-A of that Act which they want to amend. It is quite possible, Sir, that they do not want the members of this House and the public, who might get a copy of this Bill, to understand the enormity of the change which they want to introduce into this section. I am not attributing any motives but I say that the direction given by you has not been followed by the Government. Hereafter, we propose no to have anything to do with the Bill which is introduced in this House without the section being printed side by side. But I make an exception here. I give this warning: If they do not follow the direction of the President of this Council, we will not be contributing anything to the discussion and we would rather ignore the Bills which they introduce in this manner which is very, very irregular."

MR. PRESIDENT :—" This direction was followed in other Bills. Perhaps, this is an oversight here."

* THE HON. SRI K. MADHAVA MENON :—" This is an oversight here, Sir, and even in the Finance Bill we supplied it."

MR. PRESIDENT :—" I believe you will assure the Leader of the Opposition that this will not occur again."

DR. V. K. JOHN :—" I am glad the Hon. Minister has said that it is an oversight. Oversight with the Government is the rule and carefulness the exception. Anyway, I have the assurance that

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this is an oversight. I hope that there will not be another oversight. Now, having criticised the form in which it is introduced, I want to say how serious this amendment is.

“ Sir, the Police Act was passed in 1861. Then, Sir, the bureaucratic government found that an amendment was required to that Act and they introduced section 15-A in 1895. Section 15-A made a very serious inroad on the liberty of a subject. Sir, section 15 gives them the power, by proclamation notified in the official Gazette, to declare any area to be in a disturbed or in a dangerous state. Now, Sir, they could post special police force in a disturbed area and after posting they could ask the inhabitants of such area to bear the expenses of the Special Police. This and section 15-A were introduced in 1895. Certain consequences follow from the provisions of 15-A and one of the consequences was to pay damages to those injured either in person or property and to assess the proportion in which the same shall be paid by the inhabitants of such area, other than the applicants who shall have been exempted from law to pay. Imposing of fines on the inhabitants is something like a procedure adopted under martial law. In spite of one's best efforts, some disturbances might occur which attract section 15-A and many innocent persons might suffer. Liberty-loving Indians have protested from time to time against the introduction of section 15-A but there is one mitigating circumstance, one salutary provision in section 15-A. All the consequences followed only if the proclamation was notified in the Gazette. If that proclamation was not notified, section 15-A was not attracted. The effect of that proclamation would be to warn every inhabitant residing in that area, that the area is notified as 'disturbed area' so that they know the consequences beforehand once it is notified as 'disturbed area.' They must make special efforts to see that there is no disturbance there and that there is no injury to person and property. This section provided for giving notice to persons who are to be fined or who are to be assessed. Now, what does this popular Government do—I ask them not to appropriate that name which they do not deserve—they say, no notification is required under section 15-A. Although the area is not notified, you will still be able to be assessed to damages. What is the reason for not notifying it? A single murder may be enough; a grievous hurt may be enough. After it is committed, the Government can say that they will assess persons and fine them. It is atrocious that this subject should be treated in such a manner by a National Government. Sir, is there any reason why they should improve upon, in a retrograde manner, section 15-A which itself was a limb of martial law introduced by the British Government. We have found that this Government is sleeping over important matters as they have slept for two years in re-enacting Acts passed under section 93. Now, do they think that they can sleep over till an offence is committed and then notify an area as a disturbed area. Why should they not first give notice to the inhabitants so that the inhabitants may know that it is a disturbed area.”

MR. PRESIDENT:—“ The hon. Member can continue his speech after lunch.”

The House then adjourned for lunch to meet again at 3 p.m.

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(After lunch—3 p.m.)

DR. V. K. JOHN :—“ Mr. President, the Act of 1861 was amended in 1895, the original section 15 was amended and 15-A was also added. Section 15 was amended provided for a proclamation that additional police will be quartered in disturbed or dangerous districts and also provided that the cost of additional police should be apportioned by the inhabitants of such area notified in the proclamation. This apportionment is to be according to the judgment of the Magistrate and it is to be according to the means of such inhabitants and not according to his participation in the crime. To be assessed to damages one need not participate in the disturbance, it is sufficient if he did not use his influence to prevent the disturbance. Somebody in that area might have committed the crime, it is proclaimed to be a disturbed area and then everybody, unless exempted, will have to pay the cost of additional police. Section 15-A also provides that if anybody is injured in the proclaimed area that person may be given compensation. Under section 15, the proclamation is to be notified in the official Gazette. The Government do not want to amend that but they want to omit the proclamation provided in section 15-A. I feel that the Government have not the slightest idea of the purpose for which sections 15 and 15-A exist. Section 15-A provides that persons who may not have been parties to any crime still will have to pay compensation simply because they are inhabitants of that area. The fundamental condition is that these people will be told beforehand that it is a disturbed area and they were liable to pay compensation unless they use their influence to prevent any disturbance and they could apply for exemption giving grounds for that exemption. Now the very essence of that section is being taken away by Government. Do the Government forget that there are laws in this country under which a person unjustly injured can be paid compensation. In fact section 15-A says that no suit shall be maintainable in respect of any injuries for which compensation has been awarded under this section and this enables the person to receive compensation not only from the person who injured him but also from all the inhabitants of the disturbed area. It is clear that the inhabitant who is not responsible for the disturbance must certainly know that it is declared as a disturbed area. I am labouring this point because I feel the Government in introducing the amendment do not seem to understand the principle underlying sections 15 and 15-A and they have knocked the bottom off section 15-A by saying that no proclamation is required. The inhabitant is defined as a person who by himself or by his agents or his servants occupy or hold lands, or other immovable property within such area and landlords who by themselves or their agents or servants collect rents from ryots, . . . though they do not actually reside there. A man may be living in a particular place and he may be owning property in an area a hundred miles away. There will be a notification in the gazette declaring that area as a disturbed area and then the person must rush to that place though he lives far off to see that no offence is committed. But the amendment introduced by the Government says that they will not

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declare that as a disturbed area, and if any disturbance takes place, the inhabitants whether they reside in the area or not will have to pay compensation. This is worse than vicarious liability. In vicarious liability, there is some relation between the man who commits the offence and the person who is to pay compensation just as the owner of a car is liable for the injury or damage caused by the driver; section 15-A provides for something much more than a vicarious liability; under it there is no relationship between the person who commits the offence and the person who is liable to pay compensation and the only provision of law which attracts the attention of the person who is otherwise to pay compensation is the notification made in the official gazette giving notice to everybody in advance that an area is a disturbed area. Can any popular Government, conscious of the liberty of the subject, conscious of the right to property of any subject, can any civilized Government bring in such a legislation and say: "After a man commits the offence, although one may not be responsible, we will declare the area as a disturbed area and one will have to pay compensation." I say, Sir, this is against the elementary principles of justice and democracy and goes much farther than what a bureaucratic Government did in 1895. Are the Government telling the House and the country that ever since they took over the Government of the country, disturbances have been on the increase; and yet they say they are a national Government and a popular Government. Under such a Government, one would expect disturbances to go down and we must have greater peace. Do the Government want to tell everybody that after the British left we are in greater trouble and without giving notice, they must take away one's property? This is not only interference with the freedom of the subject but also expropriation. The other day we passed a law enabling Government to declare any place as a disturbed area enabling even a Police Inspector to shoot a man without giving him a warning; is that not enough; then previous to that we passed a law under which a man could be interned, externed, detained or thrown into prison without trial and hundreds of them are languishing in prison without trial and without an opportunity to go before a court of law and now you are bringing another law saying that without any proclamation after some offence is committed, although a person may be innocent yet merely by reason of the fact that he owns property there, he will have to pay compensation and section 15-A says that an assessment made by a Magistrate shall be final but subject only to revision by the Provincial Government. I have properties in Kodaikanal and some offence might be committed there; and although quite innocent, I shall be liable to pay compensation in spite of the fact that no declaration is made that the area is a disturbed area. The Magistrate assesses what I am to pay consistent with my means and I cannot go to a court of law to question it as that is final. I am afraid Government do not understand what they are doing and if they do understand the principle of section 15-A, surely they will not go further than a provision introduced by a bureaucratic Government which makes innocent persons liable to payment of compensation. This is the

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3-15 law that is being introduced in the House and the Government
p.m. want us to support it. According to my friends on the other side there is not one Bill introduced by the Government during the last two years which deserves criticism and we are expected to congratulate the Government and say: "How nice of you to bring this law to expropriate property and to curtail the liberty of the individual?" The Government have not cared to promote the welfare of the common man for the protection of which the Opposition exists. My learned friend might get up and say: "The criticism of the Bill is all trash."

THE HON. SRI K. MADHAVA MENON:—"I will not only say but also prove to his satisfaction that this is trash."

DR. V. K. JOHN:—"The only witness whom he will call for that purpose is himself. The Government are amending an Act without studying its provisions carefully. The Government want to omit the words 'being an inhabitant of such area' occurring in section 15-A (1). Under this amendment, a person need not be an inhabitant of the disturbed area to claim compensation. He can be somewhere else. The proviso to section 15-A (2) says that the Magistrate shall not make any declaration or assessment unless he is of opinion that such injury had arisen from a riot or unlawful assembly *within such area*. When one sub-section says that a person who is not an inhabitant of the area can claim compensation, another sub-section says that the Magistrate cannot assess unless the injury is sustained within the area. Both these are inconsistent. The Government do not want to amend the proviso to sub-section (2). They have brought forward an amendment to sub-section (1) which is nugatory. They have no proper persons to advise them."

MR. PRESIDENT:—"I think 'injury' includes injury in property also."

DR. V. K. JOHN:—"They enlarge the scope of section 15-A by bringing in persons who need not reside in the area eligible for compensation. But why this craze for making innocent persons liable to pay compensation which is an extraordinary thing to meet an extraordinary situation? You have enacted half a dozen other laws and with them you can meet any situation. I submit that any sensible citizen of this Province must oppose this Bill tooth and nail, because it is brought in in ignorance of the principle underlying section 15-A of the Police Act and in total disregard of the elementary principles of justice and equity. I oppose the Bill."

* SRI R. SURYANARAYANA RAO:—"Mr. President, Sir, hon. Members of this House know that when a Bill for the suppression of disorders in the Province was brought forward and the Member in charge of that Bill was not present in the House, we begged the Member at that time in charge of the Bill to convince us about the need for the Bill. You may remember that no answer was forthcoming. The Leader of the Opposition

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has now shown what a serious change is being made in the Police Act of 1861. Why should this popular Government feel the need for a change which was not considered necessary from 1861 to 1948 even by a bureaucratic, foreign Government? No reasons were given by the Hon. Minister who introduced the Bill. In the Bill for the suppression of disorders in the Province, power was taken by the Provincial Government to declare an area to be a disturbed area, and after the declaration only there would be consequential enhancement of punishment for certain offences committed in that area. If I have understood the present Bill correctly—I am not a lawyer; I am only a layman—the declaration of an area as a disturbed area is not necessary for levying fine on the people of the area to compensate the injured. Unfortunately in our district, punitive police is stationed in many places. Even last week's gazette announced that punitive police would be stationed in a place in Cuddanah district. I think the announcement was made under the Police Act of 1861. Before stationing punitive police and asking the people to pay the cost of its maintenance, the place is declared a disturbed area. If this Bill is passed, no declaration is necessary. If the Government so desire, to-morrow they may send police to a particular area and ask the people to pay for the maintenance of the police."

THE HON. SRI K. MADHAVA MENON :—" Not at all."

SRI R. SURYANARAYANA RAO :—" If that is not so, then why are you afraid of declaring an area as a disturbed area? "

MR. PRESIDENT :—" As it is, the declaration is there. The present Bill provides for giving compensation for an injury sustained in a riot or unlawful assembly before the declaration is made. Is that correct? "

THE HON. SRI K. MADHAVA MENON :—" As Dr. John said, the implications of the amendment have not been properly understood. To grant compensation for any injury sustained, a declaration is not necessary. A declaration is necessary for recovering the cost of stationing additional police force."

SRI R. SURYANARAYANA RAO :—" I am very grateful for this clarification. Why should not the present method of declaration and the taking of consequential steps be retained? The Government have not made out a case for dispensing with declaration in the matter of granting compensation. When the people of the locality are made to pay for the compensation, they must at least know that they belong to a disturbed area. Otherwise why should they be asked to pay? The District Magistrate or any other officer authorized by the Government may come and say: 'An injury has happened to a certain person or property in your area. Therefore, you must contribute towards a share of the compensation to be paid.' Who is to demarcate the area? Unless a declaration is made, how are the people to know that they are in a disturbed area? This is a very curious method of trying to compensate the injured people. In the exuberance of your sympathy for the injured

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people, innocent people who may not even be aware of the disturbance and who may not at all be responsible for it are asked to pay. If some of us have not been able to understand the implications of the amendments, it is due to the disability that we have not got the original sections. As a layman, I feel that it is wrong to give up the declaration of an area as a disturbed area, whether it is for paying compensation, for stationing punitive police, or for any other purpose. Therefore, I feel that this Bill should not be supported by this House."

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SRI M. NARAYANA MENON :—" Mr. President, Sir, when I heard my hon. Friend Dr. John very anxiously speaking about this section, I thought that I should read it once more to see whether the liberties of the people are in any manner taken away by the present amendment. If, in fact, the amendment takes away the liberties of the people, then of course, all of us would feel with him and suggest necessary amendments. But as I read the section, it seems to me that there is no cause for such anxiety whatsoever.

" Sections 15 and 15-A need not be read together because the one has nothing to do with the other so far as the present amendments are concerned. Section 15-A as it stands reads as follows :—

' 15-A. (1) If in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub division of a district within which such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Provincial Government after such an enquiry as he may deem necessary and whether any additional police force has or has not been quartered in such area under the last preceding section to—

(a) declare the person to whom injury has been caused by or has ensued from such misconduct;

(b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section.'

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" According to this section 15-A, a grievous hurt or loss or damage to property, etc., must have been caused or must have ensued from the misconduct of the inhabitants of an area in regard to which the proclamation notified under the preceding section 15 has been in force. Under section 15, there must be a proclamation notifying an area to be a disturbed area. In that area, such a thing must happen; the person must be a resident in that area; he must have suffered damage to his property and if he applies for compensation, this section says that these things will happen. That is what is implied in section 15-A. The amendments in clause 2 (i) of the Bill says that the words 'in regard to which any proclamation notified under the last preceding section is in force', and the words 'being an inhabitant of such area', shall

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be omitted, in sub-section (2) of section 15-A. Therefore the section as amended by this clause will read thus :—" If in an area, death or grievous hurt or loss or damage to property has been caused by or has ensued from the misconduct of the inhabitants of such area, or any class or section of them, it shall be lawful for any person who claims to have suffered from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, application for compensation to the Magistrate of the district or of the subdivision of a district within which such area is situated." That is to say, any person can apply for compensation who has sustained loss or damage to his property, and the hurt or damage need not happen only in a notified area for the purpose of claiming compensation. It may happen in any area, but it must be due to the misconduct of the inhabitants of that area. If in a certain area, the inhabitants behave in such a manner as to cause injury to property or to life, etc., then to such an area, the provisions of this section will apply. But who is entitled to compensation? Is it only the person resident in that area? No. According to this amendment, any person can claim compensation who has suffered damage. What is the kind of damage that that person can suffer? Certainly it cannot be personal injury, because he does not reside in that area. Therefore it must be injury to his property. Even such a person is entitled to compensation, according to this amendment. I must ask my hon. Friends opposite, how is it that this amendment takes away the liberty of the people? As a matter of fact this amendment goes a step further and affords protection to a person who might not be a resident of the locality, but whose properties must have suffered damage and entitles him to claim compensation. This amendment only gives an additional right and does not take away any existing rights. I am quite unable to understand Mr. President what are the liberties of people which my hon. Friends opposite are so anxious to safeguard and why is it that they are so much perturbed about, because any person, whether he is a resident in the locality or not can claim compensation if he has suffered any damage to his property. There need be no anxiety whatsoever on that account. In effect, these two amendments simply remove certain conditions laid down in the original section and make it applicable to a larger number of people who are legitimately entitled to compensation.

" Now Sir, the anxiety of my hon. Friends opposite probably appears to be that if an area is not declared to be disturbed area, and if any loss or damage happens to a person, he can have no legal means of claiming compensation. If that is their anxiety, then I say they are quite wrong. It is not so. That is not the proper way to look at things. If we look at the present circumstances in the country and the conditions that are prevalent all round, it is possible that at any moment, without any previous notice, any catastrophe might happen or perhaps some serious riots might take place in any area and great loss or damage to properties might occur. In such a case, there is no provision under which compensation can be claimed by the person affected, if

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section 15-A is not amended as proposed in the present Bill. Events are happening with such quickness and rapidity in these days that any man or any village might be affected at any moment. Take for instance the Chirakkal taluk. More than 500 or 600 people entered several houses and took away all the properties. They need not necessarily be Communists. Suppose the area is not a notified area and suppose the person who has suffered damage to his properties is not a resident in that place then how can he claim compensation unless the present amendments are allowed. We simply cannot keep quiet when such things happen, without vesting the necessary powers with the Government to deal with such a situation, when it arises. Therefore, this amendment, as I said just now, confers a further right and a further benefit and does not take away any existing rights of persons who have suffered loss or damage to their property.

"So, when members opposite were waxing eloquent over rights and liberties of people being sought to be taken away by this Bill, I thought that I had not properly understood the section and the implications of the Bill. But now when I have read it again, I have become perfectly confirmed in my view that the amendments are absolutely necessary and the Government are perfectly justified in taking powers to deal with such situations as might arise."

DR. V. K. JOHN :—"The hon. Member is in the same position now."

SRI M. NARAYANA MENON :—"Sir, we have heard each other and we are in the same position as we were before. But when he was expressing so much anxiety over these amendments, a little bit of anxiety also overtook me, and that is why I have read the section and the amendments a second time and I am now in the same position as I was before and I am confirmed in the view I have already taken."

"Then Sir, another amendment is sought to be made by clause 2 (ii) of this Bill and it is this :—

'In sub-section (2), clauses (a), (b) and (c) shall be re-lettered as clauses (b), (c) and (d), respectively, and the following shall be inserted as clause (a), namely :—

"(a) declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same."

"This is in fact a necessary consequential amendment, if the previous amendment is to be allowed, because under the previous amendment, death or grievous hurt or loss to properties must have been caused in a certain area, not notified. It might be that the persons who have caused such loss might be residents elsewhere and therefore the officer should be given powers to declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same."

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" Sub-section (2) of section 15-A of the original Act lays down certain procedure to be adopted and empowers the Magistrate of the district to cause certain enquiries and assess the guilt of persons in the locality and to afford compensation for the persons affected. This amendment (ii) to sub-section (2) empowers him to declare the limits of the local area, the inhabitants of which, have, in his opinion, been guilty of such misconduct or caused or contributed to the same. This is simply a consequential amendment.

" I therefore submit, Sir, that the amendments contemplated in this Bill merely confer certain additional benefits and do not take away the liberties of the people, and nobody, including my hon. Friend Dr. John need be anxious about the people affected, because their rights are only better safeguarded by these amendments."

* THE HON. SRI K. MADHAVA MENON :— Mr. President, Sir, I must confess that I am guilty to a little extent of the charge of Mr. Suryanarayana Rao that I did not, when I introduced this Bill, explain at length the full scope and implications of these amendments and the circumstances that have necessitated us to bring forward this Bill. For this, Sir, I must admit that I was a little bit misled by the reception that I had to this Bill in the other House. In the other House members of the opposition, whether they belonged to the Muslim League group or to the Independent Group were vying with each other in complimenting the Government on having brought a Bill like this and not only that, but some of the members went to the extent of asking the Government to give retrospective effect to these amendments. As a matter of fact, Sir, in the Select Committee, it was proposed by certain members that the Bill must be given retrospective effect because of the benefits that it seeks to confer to certain people who have been affected. It was because I thought, Sir, that it was such a plain thing, which is really intended to confer benefit to certain people and not harm anybody that I did not explain at any great length the full scope and purpose of the Bill. But when I heard my hon. Friends Mr. B. Narayanaswami Nayudu, Dr. John, Mr. Suryanarayana Rao and Mr. Farookhi, I was a little bit astonished and was left with this impression to pray God, as Jesus did, ' Oh Father!, Forgive them, for they know not what they are saying! '

" Sir, my hon. Friend Mr. Narayanaswami Nayudu was charging me with effrontery, temerity and arrogance and things of that sort.

" If I am guilty of these charges I am sorry for it because arrogance has to be answered by arrogance and I shall not fail to do so. As the law at present stands there is no legal liability on the part of the Government to pay any compensation for losses sustained as a result of a civil commotion and such a payment, if at all, can only be made on an ex gratia basis and under very special and exceptional circumstances. As far as can be gathered

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3-45 there are only two instances in the Province where such compen-
p.m. sation was given. One was in 1921 when the Moplah Rebellion took place in Malabar. In that example the area was not notified as a disturbed area under the earlier Act. And what is the effect of the position if the amendment is not there? The effect of the position if a civil commotion happens in a place in an area which is not notified will be this. I will take the example of Dr. John himself. Dr. John possesses properties in Kodaikanal. Suppose there is a civil commotion and unfortunately a riot happens and Dr. John's house is destroyed, which God forbid and Dr. John who is residing in Madras cannot claim compensation because the section says that only an inhabitant of that area can claim compensation. And Dr. John is not an inhabitant of that area. Therefore we wanted to clear the difficulty. If Dr. John is permanently residing in Madras and if unfortunately a civil commotion happens in Kodaikanal the Government must have an opportunity to compensate him because without his knowledge Dr. John's property has been destroyed and he is not responsible for it. We want that those who have benefited by it and those who have taken part in the riot and looted Dr. John's house and wrecked his property and shared the loot between them should not be allowed to share it with immunity but they must be compelled to disgorge a portion of it if not all and it must be given back to Dr. John who resides in Madras. That is one of the objects. (Dr. V. K. John : They means who?) Those who looted. In 1921 a civil commotion happened, namely, the Moplah riot and then it was not a notified area. Looting was going on indiscriminately for months together. No compensation could then be given ex gratia. Therefore under the special orders of Government fines were collected from the people and compensation was paid. Then in 1942 during the Civil Disobedience Movement there were various places where houses were burnt and offices looted. In such cases the Government under the special Act that was in force collected collective fines from the areas and then paid compensation to those who suffered. There are only two instances like that. Unfortunately after the 15th of August there has been a serious wave of communal disturbances all over India. Luckily for us it has not spread to this Province. All the other Provinces in India did the identical thing of taking powers, because otherwise no compensation could be given. To give compensation in areas which have been affected by any sort of civil commotion and properties in those places have been destroyed, whether they were destroyed by a particular set of persons or they connived at that destruction, they must be asked to pay. For that after the 15th of August every other Provincial Government in India took the power and we took a little longer to do it as we were considering whether there would be any necessity for taking such a power. But unfortunately here also something happened in Tiruvannamalai and Erode. (Interruption.) I do not want to go into the details of what happened in other places, Sir. There is no necessity for creating unnecessary feelings.

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“ Sir, as Mr. Narayana Menon pointed out there is no connection between sections 15 and 15-A. I appreciate Mr. Suryanarayana Rao's statement that he did not understand. He does not know as much law as Dr. John or Mr. Narayanaswami Nayudu are supposed to know.”

DR. V. K. JOHN :—“ Does the Hon. Minister appreciate him, Sir, because he did not understand? ”

SRI B. NARAYANASWAMI NAYUDU :—“ I am only supposed to know law, Sir. I agree Sir, that the law-makers know more laws than I do ! ”

THE HON. SRI K. MADHAVA MENON :—“ I agree, Sir, I am the law-giver for the time being. There is no doubt about that. I only repeated what Mr. Suryanarayana Rao himself said, Sir. I appreciate what he said. (Interruption.) If he thinks the cap fits him he may take it.”

SRI B. NARAYANASWAMI NAYUDU :—“ I am taking it, Sir.”

* THE HON. SRI K. MADHAVA MENON :—“ Section 15 relates to quartering of additional police in a disturbed area. In an area which is declared by the Provincial Government to be in a disturbed area, section 15 gives power to the Government to quarter additional police there. That section gives power to inflict fines and recover the cost of that police from the persons concerned. That is what section 15 says. What does section 15-A say? That section says in any area which is declared to be a notified area if some commotion happens and some property is damaged the person applying to the Government for compensation should be an inhabitant of that area. That is section 15-A. Dr. John wanted to make out that Dr. John may stay in Madras but the offence may be committed in Kodaikanal and that he will be asked to pay. That is not section 15-A. That is a travesty of the intention of section 15-A. If an offence, civil commotion or riot or something happens in a particular place which is a notified area any inhabitant of that area can apply to the Government for compensation. This is the procedure after application. After application as I said two things are necessary for a person to claim compensation. It must be a disturbed area. And he must be a resident of the locality. Who is an inhabitant of the area is defined by section 15. Section 15-A says : If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period, etc. . . . an application for compensation to the Magistrate of the district, etc. That is section 15-A. Section 15-A is an enabling

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section. As Dr. Johnson said—I am sorry, Sir, I mean Dr. John—it does not say that the inhabitants must be fined. This is an enabling section asking the Government for compensation for the loss that is sustained.”

MR. PRESIDENT :—“ I do not think Dr. John will object to be called Dr. Johnson.”

THE HON. SRI K. MADHAVA MENON :—“ I am not so sure, Sir.”

DR. V. K. JOHN :—“ Sub-clause (6) says that the word ‘inhabitants’ shall have the same meaning as in the last preceding section. In the explanation to section 15 it is stated who is an inhabitant for the purpose of that section.”

MR. PRESIDENT :—“ Section 15-A enables a person who is an inhabitant of that area to claim compensation. The whole argument of Dr. John is that section 15-A makes a person even if he is not an inhabitant of a locality to pay. Does it? ”

DR. V. K. JOHN :—“ It does, Sir. Section 15-A says that the Magistrate can assess the proportion in which compensation shall be paid by the inhabitants. Then sub-section 6 says that the word ‘inhabitant’ shall mean what it means in section 15. Section 15 says that an inhabitant is any person owning property, etc. Then he can be assessed for payment of compensation.”

MR. PRESIDENT :—“ If his action is responsible.”

DR. V. K. JOHN :—“ So many fellows can be exempted, Sir. But they can be assessed. We are unable to understand how he cannot be assessed. The Government are showing their ignorance.”

THE HON. SRI K. MADHAVA MENON :—“ As you are pleased to observe, Sir . . . ”

MR. PRESIDENT :—“ What happens if the clause is removed.”

THE HON. SRI K. MADHAVA MENON :—“ Anybody can claim compensation although he is not an inhabitant.”

SRI B. NARAYANASWAMI NAYUDU :—“ Anybody in the whole world? And pay also? ”

THE HON. SRI K. MADHAVA MENON :—“ As you said, Sir, section 15-A is an enabling section. It enables a person, Sir, even though he is not a resident to claim compensation. If the words are removed anybody can apply.”

DR. V. K. JOHN :—“ Anybody in the street? ”

THE HON. SRI K. MADHAVA MENON :—“ Any person who claims compensation, Sir, should have suffered some injury from such misconduct. Not any person in the street can claim.”

MR. PRESIDENT :—“ What about his objections to paying? ”

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* THE HON. SRI K. MADHAVA MENON :—“ I am coming to that, Sir. Therefore this enables the person who has suffered a damage to claim compensation. The sub-sections determine the way in which compensation is to be paid. It reads: It shall thereupon be lawful for the Magistrate of the district with the sanction of the Provincial Government after such enquiry as he may deem necessary, etc. It is there that Mr. Narayanaswami Nayudu charges me with effrontery. He says that the Government will give instructions to the Magistrate. I say they will, Sir. If a Magistrate after proper enquiry finds that it is necessary and wants order of the Government in a case like that the Government will certainly give their sanction. Is it effrontery? The section says that the District Magistrate after proper enquiry gets the sanction of the Government. It is not effrontery, Sir. It is something else. Then the section says what the Magistrate is to do with the application. The Magistrate shall declare to whom the injury has been caused and shall have the amount of compensation fixed and paid to such person and assess the proportion in which the same shall be paid by the inhabitants. That is what Dr. John objected to. The section says: Assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section. Here the Magistrate will enquire and establish who are the persons who should be subjected to the penalty. Mr. Narayanaswami Nayudu stated that if he knew that it was a notified area he would run away from that area. That is not the question. Supposing in the Armenian street where the banks are situated there is a riot and properties are looted and the money is distributed among persons. It is not a notified area. We have no power to collect that money. Then are we to allow the persons to enjoy the fruits of their dacoity? No. If we can possibly find who are the persons who have joined, why should not we make them disgorge that money and pay the same to the persons who have suffered. (Interruption.) It is only where the ordinary law does not permit that this law will come in.

“ It is imagination running riot to say that Dr. John in Nungambakkam will be asked to pay compensation in Kodaikanal unless he has connived and helped the people to do something, which I do not think Dr. John will do, and no Magistrate will ask Dr. John to pay. Sub-clause 2 gives powers to Magistrates to take the necessary steps to find out who are the persons liable. In the proviso, it is stated—

‘ Provided that the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.’

There is another safeguard also. It is—

‘ It shall be lawful for the local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.’

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This is the import of section 15-A. What are we now attempting to do by this amendment? In Tiruvannamalai some time back communal trouble happened. Some houses were burnt. Property had been looted. Supposing that a particular section of the people had looted some lakhs of rupees, if that area was not a notified area, nobody could claim any compensation. Now the Government want power, if anybody applies for compensation, to make an enquiry as to how much the people have suffered and also to find out whether the blame could be pitched upon any one set of persons, and then collect the money from them and pay compensation. That is what we attempt to do. Because troubles—mostly communal troubles—are happening now, and we want to know the persons or the aggressor community or section of the people and ask them to pay compensation to those innocent people who have suffered loss in men and property at their hands. I cannot understand all this bogey of a popular Government acting against the spirit of democracy or that we are kicking off the very steps by which we have come into power. We say that in sub-section (1) of section 15-A, the words 'in regard to which any proclamation notified under the last preceding section is in force may be omitted so that even in an area where there is no proclamation, if by any accident or set of circumstances any civil commotion takes places, or some disturbances occur, the people in that area, who have suffered losses on account of the disturbances, may be enabled to get compensation. This is the object of the amendment. There is nothing here to warrant imaginary grievances of any man in the street being asked to pay compensation."

MR. PRESIDENT:—"Am I right in understanding the amendment in this way? The effect of the amendment to sub-section (1) of section 15-A, i.e., the removal of the phrase 'being an inhabitant of such area' enables a person who is not a resident in that area to claim compensation."

THE HON. SRI K. MADHAVA MENON:—"That is the position, Sir."

MR. PRESIDENT:—"As regards the rest of the section, i.e., the question of payment of compensation, this amendment does not affect it. The section is left as it is."

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir."

MR. PRESIDENT:—"The question as to who is to pay is not affected?"

THE HON. SRI K. MADHAVA MENON:—"No, it is not affected."

MR. PRESIDENT:—"Am I right in understanding the amendment thus?"

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir."

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SRI R. SURYANARAYANA RAO :—“ If the injury is caused by those who do not belong to that area? ”

* THE HON. SRI K. MADHAVA MENON :—“ There is no change in that part of the section, Sir. Mr. Narayanaswami Nayudu asked ‘ What is this law? The Collector can declare any person or anyone to do anything. Do you in all seriousness say that this is a law? ’ I have explained what we mean by this amendment. I cannot understand why we should not be serious. We are awfully serious to give relief to the innocent sufferers. I have explained this fully.

“ Mr. Farookhi lodged an emphatic protest. Throughout his long speech, I could not find one word about the amendment or the principle underlying the amendment. He simply said ‘ this is despotism; this is Fascism; this is against all principles of democracy, and this is directed against political opponents. ’ I do not understand the relation between this amendment and political opponents. After that red letter day, many people were put in jail and many were detained. What has that to do with this amendment? After that red letter day many events have happened in the country, and a provision like this for compensation has become necessary. That is all I can say with regard to that objection.

“ Dr. John first protested that Government have not supplied copies of section 15-A of the Police Act, 1861, to this House. He made an insinuation which I strongly resent and protest.”

MR. PRESIDENT :—“ May I request the Hon. Minister not to be so sensitive to all this? ”

* THE HON. SRI K. MADHAVA MENON :—“ I am not sensitive, Sir. I am as thick-skinned as a rhinoceros to receive criticism. But it should not mean that we cannot hurl back the criticism on those who made it, i.e., that copies of the existing section 15-A were not supplied to members and that Government disobeyed the direction given by you in this behalf. Copies of the Acts or sections relating to every other Bill have been supplied to hon. Members of this House. By some means or other, copies of section 15-A have not been supplied to hon. Members. To insinuate that we wanted to disregard your direction is unfair.”

MR. PRESIDENT :—“ I made it quite clear then that I did not take it in that sense.”

* THE HON. SRI K. MADHAVA MENON :—“ It is said, Sir. that section 15-A makes a serious inroad into the liberties of the people. I may ask what is the inroad that I have made into the liberties of the people. It must be remembered that we are only amending the section in two places. One is that notification is not necessary to apply for compensation and the other is that the injured person need not necessarily be an inhabitant of that area. This would enable a greater number of people to apply for compensation. To say that this is an inroad into the personal liberties of

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people, as Dr. John said, is, I may say, *suppressio veri*. He said that innocent persons might suffer by this amendment. I say that if they would suffer even otherwise they will suffer now also. Government have powers to exempt, by order, any person or class or section of such inhabitants from liability to pay any portion of such compensation. I do not understand Dr. John's assertion. I am now making a counter assertion. Either he does not understand the provision or wilfully wants others not to understand it correctly. He says, to use his very words, 'by this amendment a person who is one hundred miles away becomes liable to pay. If a person, remaining 100 miles away, gives advice to his agent in the area to commit mischief, and if that can be proved, then that person, even if he be 1,000 miles away from the area, shall become liable. This is not the result of the amendment. But there are persons who injure people themselves keeping away from the place. They are covered by this section. (Interruption by Dr. John.) It is said that without notifying the area, we are taking away another man's property. Sir, that is not the amendment. These phrases and words are not warranted by this amendment. All the time my friend Dr. John was saying that this Government would not allow criticism and that we were not infallible. We are always prepared to be convinced. But they always try to show that we are in the wrong. I say, Sir, that expectation will not be fulfilled.

"Mr. Suryanarayana Rao said that according to the amendment a declaration that it is a disturbed area is not necessary to apply for compensation. Suppose, to-morrow some civil commotion happens in any part of this Province or some communal riot takes place. For claiming compensation for the loss suffered, it need not necessarily be that the area should be a declared area. That is what this amendment seeks to do. He felt that Government could to-morrow impose Police on a particular tract and collect money from the people in that locality. That is under section 15 and not under this amendment.

"Sir, the objections raised by Hon. Members do not really stand any examination."

The motion that the Police (Madras Amendment) Bill, 1947, as passed by the Legislative Assembly be taken into consideration at once was put and declared carried.

Mr. B. Narayanaswami Nayudu demanded a poll, and the House divided thus—Ayes 17, Noes 7.

Ayes.

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| (1) The Hon. Sri O. P. Ramaswamy Reddiar. | (9) Sri N. Sankara Reddi. |
| (2) The Hon. Dr. T. S. S. Rajan. | (10) " N. Venkatachalamaji. |
| (3) The Hon. Sri K. Madhava Menon. | (11) " C. N. Muthuranga Mudaliyar. |
| (4) Sri K. Venkataswami Nayudu. | (12) " A. Govindachervu. |
| (5) " M. Narayana Menon. | (13) " C. Perumalaswami Reddiyar. |
| (6) " B. Bheema Rao. | (14) " M. K. Sundararama Ayyar. |
| (7) " S. K. Satagopa Mudaliyar. | (15) Mrs. M. Hensman. |
| (8) " M. Narayana Rao. | (16) Sri G. Venkata Reddi. |
| | (17) " C. Veerabhadra Rao. |

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Noes.

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| (1) Dr. V. K. John. | (4) Sri A. Gopalakrishnayya. |
| (2) Abdul Latif Farookhi Sahib | (5) „ H. M. Jagannatham. |
| Bahadur. | (6) Dr. S. ed Tajuddin Sahib. |
| (3) Sri B. Narayanaswami Nayudu. | (7) Sri K. Suryanarayana Rao. |

Neutral—Nil.

The motion was declared carried and the Bill was taken into consideration.

Clause 2.

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, very vehement arguments have been used. I am not supposed to be a lawyer pretender nor members on the Treasury Benches are pretenders. But, they are not having absolute knowledge of the law. Now, what is the point under dispute? The point under debate in this case is about compensation, whether a person who has received an injury or whose property is looted should not apply for compensation. Is it the point that Government wants to make? If you say that he should not, then you are taking away the elementary right of civil liberty. Now, what is civil liberty? It is that a person's property will not be taken except with the knowledge of a court of law. What does it mean? It means that if a man plunders my property, then I am liable to compensation. The ordinary law of the land says that if a plunder takes place, Government must disgorge the plunderer. This elementary need you want to refuse. That is why I say that is an inroad upon the rights of ordinary law. The ordinary law says that if a man is injured or if his property is looted, then he has a right to seek compensation. If you deny that right, then it is an inroad into the ordinary law of the land. We have no rhinoceros heads though the Hon. Sri Madhava Menon may say that he has got a rhinoceros skin to receive any amount of criticism. My hon. Friend was saying that when a person is hurt and when his property is looted and plundered, the plunderer must not be disgorged. That is the point at dispute. What is the meaning of vicarious liability? I say, when A, B or C is liable under the Act, and if he is left scot-free, then it is an inroad into the personal liberty of others. Sir, I say, this Act itself is an amplification of martial law.”

MR. PRESIDENT :—“ Suppose the amendment is not there and the Act only is there. What is the position? ”

SRI B. NARAYANASWAMI NAYUDU :—“ Then, we need not have to discuss it here. Even the original Act as it is, is an encroachment on personal liberty.”

MR. PRESIDENT :—“ The question is, are we taking away the rights of the individual in the original Act, by means of this amendment? ”

SRI B. NARAYANASWAMI NAYUDU :—“ Yes, Sir. The Government says, as soon as there is a disturbance or plunder or

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p.m.

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looting in any area, they rush the Police force there. But, do they take care to see that hooliganism is prevented? Is it merely by passing of the Act that it can be prevented? No. Suppose you send about ten or twelve police people where there are about forty people engaged in plunder. I ask, is it going to protect the people there? It is not. What is the law in this case? If you send ten or twelve police where there is a big rioting, it is not going to save the people. You may say that under the law, you have sent the police force to protect the rights of the citizens. But such laws do not really protect the life and property of the citizens but are only on the Statute Book. Therefore these laws are what may be called the fiat. How are you going to protect the society, if you are going to exempt A, B or C, who plunders or loots? Is there civil liberty, I ask. The point is when Government declare a particular place as notified where a plunder occurs, for instance, say Nungambakkam, the area is defined. As the Hon. Minister has said, the area cannot be taken as Nungambakkam plus Mylapore. Therefore, if a person who is liable to compensation goes out of that area to a different area and some other person makes the application in the disturbed area, is he to get the money? Is there any sense in the Government's proposal? The point at dispute is not whether the money is robbed or not, but the point is that if the money is robbed, who is going to get the compensation. It may be that some other person who is not entitled may swallow the money at the expense of many people. It is like what Hitler said: 'for every German life, we will take ten lives.' Similarly, are you going to make the inhabitants pay for this? "

MR. PRESIDENT:—"The hon. Member should note that there are now two things. Firstly, there is the original Act as it is. The second thing is, how the present amendment affects it. The arguments advanced by the hon. Member are against the Act itself. My point is, how does the amendment make the Act worse. I have no objection if the hon. Member says that he is arguing against the Act itself but what has it to do with the amendment? "

SRI B. NARAYANASWAMI NAYUDU:—"My answer is this. This Act is an encroachment on civil liberty."

MR. PRESIDENT:—"We are not concerned with the Act as it is."

SRI B. NARAYANASWAMI NAYUDU:—"Sir, the original Act itself is an encroachment on the personal liberty of an individual and this amendment makes further encroachment. You can see how the previous Act was framed. It was framed to arm the police with punitive powers. It is martial law. Sir, as soon as martial law is declared in any place, the ordinary law is displaced. My hon. Friend Sri Narayana Menon said that the dispute was about the applicability of the compensation. The real question is, who is to pay the compensation. Is it going to be

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determined under the ordinary law of procedure or under this law? If it is under this law, then I say it is a drastic encroachment on the individual's elementary right. What is the duty of the Government? If there is a disturbed area, the Government should rush the police there. Even after sending the police, if you are not able to maintain law and order, you are not entitled to ask the inhabitants to pay. I ask, is the Government going to rob Paul and pay Peter. Then, what is it that you want under this amendment? Whoever says that compensation should not be paid? But, the question is from whom that money is to come. The real question is, by whom that compensation is to be paid and how it is to be paid. If it is under the ordinary law, we can have recourse to the evidence law. If it is under this law the Hon. the President himself has pointed out that it is an encroachment on personal liberty and sanctity of private property. It makes a vicarious liability. Dr. John has also stated that this Act makes a vicarious liability because the Government get the money from the persons in the disturbed area. The Hon. Sri Madhava Menon says, that a man one hundred or one thousand miles away may connive with a man here. In that case, we have got the ordinary law to deal with such persons."

MR. PRESIDENT:—"I am as much a citizen as Mr. Narayanaswami Nayudu is and I am anxious to properly understand the scope of this amendment. I am glad Mr. Narayanaswami Nayudu raised the question of an individual's civil rights but Government seem to be thinking of sudden conflagrations taking place such as those that occurred in Calcutta or Naokhali when huge loss of life and property may occur. Simply because the place is not a notified area, our people who suffer such enormous loss of property or who sustain serious injuries should not go without any remedy. That is the position which the Government are trying to meet. That is why they have brought this first amendment. In this amendment, it is suggested that simply because a particular place has not been notified, people who suffer stupendous and enormous loss of life and property should not go without compensation. It is to meet such a situation that Government want this amendment and I do not see any reason why the hon. Member should object to it."

SRI B. NARAYANASWAMI NAYUDU:—"The premises, namely, that a person should not receive compensation is wrong. The whole question is, who is to pay the compensation?"

MR. PRESIDENT:—"There are two amendments in this Bill. One amendment is the removal of the proclamation and another amendment is the removal of the words 'being an inhabitant of such 'area.' I am only dealing with the first amendment. The hon. Member opposes the amendment for the removal of the proclamation, because he thinks that it affects the right of the individual more than the original Act does. About the removal of the words 'being an inhabitant of such area,' I want to know what objection the hon. Member has:"

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SRI B. NARAYANASWAMI NAYUDU :—" My point is that persons and property may be protected and law and order may be maintained only if Government station the necessary force in that area. Government should not say, ' we will not rush police force to the disturbed area; we will not maintain adequate police in order to maintain law and order, but we will throw the responsibility on the heads of the inhabitants themselves in the disturbed area.' Government cannot say so."

MR. PRESIDENT :—" Suppose the area has not been notified previously and a man suffers a serious loss in that area. What is the remedy? Is he to be compensated or not? "

SRI B. NARAYANASWAMI NAYUDU :—" He has to be compensated under the ordinary law. In the original Act itself, there is an inroad into private property. It should be made applicable only in extraordinary circumstances. Therefore, the criticism made that it is an imaginary grievance is entirely wrong. It is a negation of personal liberty. I say it goes further. How? Because, Government fail in their elementary duty to keep the necessary forces there to prevent such a disturbance taking place. A disturbance may occur in Mylapore and the persons responsible may have gone to Nungambakkam. Then, what is the effect of the notification? It rests entirely upon the Ministry and the Government to declare which inhabitants and which area shall be liable to pay. Therefore, it is not a question of compensation but it is a question of vicarious liability. Again, the real point is who is asked to pay the compensation? Is it the persons which the magistrates try that should pay the compensation or the persons who actually swallowed the money, who should be asked to pay the compensation? "

4-30 P.m. MR. PRESIDENT :—" The amendment does not affect that question. The hon. Member need not therefore dilate on that point."

SRI B. NARAYANASWAMI NAYUDU :—" Therefore, if my friends would concede that the Act is an inroad on the rights of private property and that it should be applied only in extraordinary circumstances, the criticism that we are voicing forth imaginary grievances is wrong.

" Not only that, Sir. The magistrate has got the power to say what is the area from which the compensation has to be collected. The trouble may occur in Mylapore, but the magistrate may include Nungambakkam and Triplicane in that area. It is not a question of not paying compensation; it is a question of vicarious liability. Some persons are ordered to pay. How is it to be determined and who is to determine it? "

MR. PRESIDENT :—" The amending Bill does not affect this question."

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SRI B. NARAYANASWAMI NAYUDU :—“ If it is admitted that it is a serious inroad on the rights of private property, it ought not to be extended but strictly limited to the proclaimed area. The argument that the disturbance may occur suddenly is only an excuse for extending the powers of the executive.”

DR. V. K. JOHN :—“ Sir, I feel strongly that the real point has not been answered. The discussion here should be on a high level and there should not be any personality or sensitiveness introduced. We are discussing the matter from the public point of view.

“ Sir, the leading characteristics of British constitution are conflict, compromise and caution. Here is a conflict of interests, let us have a compromise and let us do it cautiously. The question which has been raised again and again and which has not been answered is this. The purpose of section 15-A is to obtain the co-operation of the inhabitants of the area by telling them, ‘ This is a disturbed area and if there is any loss of property or injury to any person in that area, you, being an inhabitant of that area will be made liable. Please co-operate with the Government so that there may not be any disturbance.’ That is the underlying principle of the law. The intention behind the notification is to give a warning to the people and tell them that if any disturbance occurs the Government would have to collect compensation from the inhabitants of that area and pay it to the persons injured. Now they have knocked the bottom out of the principle by not making the notification. Section 15-A speaks of—first a notification, second a claim by an injured man, third an enquiry and fourth an assessment. Now we take away the first thing, notification. We start by saying that a person is injured and that he may claim compensation. Whether section 15 is applicable or not comes later. The magistrate after enquiry may declare a particular area as a disturbed area, and make an inhabitant liable.”

MR. PRESIDENT :—“ The notification is still there. Section 15 is still there.”

DR. V. K. JOHN :—“ It is there only for the punitive police, for the sake of making an assessment to meet the expenses of the punitive police.”

MR. PRESIDENT :—“ Does not section 15-A apply to the area notified under section 15? This question of compensation will apply to a notified area as well as to a non-notified area.”

DR. V. K. JOHN :—“ The amendment says: ‘ We will not notify that the area is a disturbed one. Even if we do not notify it and give you a chance to co-operate, still we shall make you liable.’ The difficulty is this. Suppose there is a disturbance. A man applies for compensation. After he applies, the Government goes into the question. The Magistrate makes the enquiry and then he says that section 15-A must apply and the people there must pay compensation. The Government must look at the question not only

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from the point of view of the man who claims compensation, but from the point of view of the public. What is the intention of section 15-A? Not so much to give compensation to the injured man. If that were so, the Government are rich and as they did in the case of the Malabar rebellion, they can pay out of public funds. The intention is to give a note of warning to the public so that they may co-operate."

MR. PRESIDENT :—" May I request the hon. Member to finish soon? "

DR. V. K. JOHN :—" A notification beforehand will warn the people to co-operate with the Government in the interests of Law and Order. That is knocked out of the bottom. The primary and fundamental intention underlying section 15-A is taken away by this amendment."

* THE HON. SRI K. MADHAVA MENON :—" Sir, my hon. Friend asks me what is the intention of section 15-A? I shall refer him to the marginal note to the section which reads: ' Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.' Mr. Narayanaswami Nayudu said that we are imposing a vicarious liability. It is not done by this amendment, Sir. By whom is the compensation to be paid is not the subject-matter of the amendment. We have all been talking here without knowing what the purport of the amendment is. The words ' notified area ' are omitted from section 15-A, but a separate clause has been provided as sub-clause (a) of sub-section (2) which says that the District Magistrate can ' (a) declare the limits of the local area the inhabitants of which have, in his opinion, been guilty of such misconduct or caused or contributed to the same.' What has been omitted from the first portion is put in the second portion so that a notification need not be a condition precedent to the application. After the application is made, the Government or the Collector may determine which is the area to be notified."

MR. PRESIDENT :—" There is a notification contemplated though it comes after the incident."

THE HON. SRI K. MADHAVA MENON :—" Otherwise the notification will be a condition precedent to the application."

Clause 2 of the Bill was put and carried. Clause 1 and the preamble were put one by one and passed.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
' that the Bill be passed into law.' "

SRI B. NARAYANASWAMI NAYUDU :—" Sir, I would once more draw the attention of the House to the fact that a subsequent notification is not the same as a previous notification. Any area can be clubbed together in a subsequent notification. Suppose a murder takes place in Triplicane, the magistrate may say that the inhabitants of Triplicane, Mylapore and Dindigul also should be

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liable to pay compensation! When a proclamation is there previously, it will be known that the inhabitants of a certain area alone will be liable, but in this case no inhabitant knows whether he is liable or not. It is left entirely to the executive to say that. It is an infringement of the first principle, namely, that you must take away the rights of property and individual liberty only after proper notification. The plunder might occur in Tanjore and they might say that Dr. John and Mr. Narayanaswami Nayudu sitting in Madras have incited these people and they must be made liable. Therefore, the fear is not at all imaginary. The amendment only seeks to clothe the executive with supreme powers over the sacred rights of private property and individual liberty."

The question that the Bill be passed into law was put and carried.

(5) THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 (L. A. BILL NO. 7 OF 1948)

THE HON. SRI K. MADHAVA MENON :—" Sir, I beg to move—

' that the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948) as passed by the Legislative Assembly, be taken into consideration at once.'

" Sir, I am sure that this Bill will not raise much of a controversy."

MR. PRESIDENT :—" The Hon. Minister need not be so sure." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" I have still some faith in the reasonableness of people, Sir."

DR. V. K. JOHN :—" It is an unnecessary insinuation, Sir. I seriously object to it. I do not like that every time the Government should insinuate against the Opposition."

THE HON. SRI K. MADHAVA MENON :—" The hon. Member assumes that I allege want of reason on the part of the Opposition. I did not mean it. It may be as well on my part, Sir."

DR. V. K. JOHN :—" Sir, why cannot we have dispassionate and disinterested discussion of matters on a high level without bringing in personalities? "

THE HON. SRI K. MADHAVA MENON :—" If my hon. Friend has a guilty conscience, I cannot help, Sir."

MR. PRESIDENT :—" I think the Hon. Minister need not provoke him further."

DR. V. K. JOHN :—" Why can't the Hon. Minister move his Bills without any remarks against the Opposition? . . ."